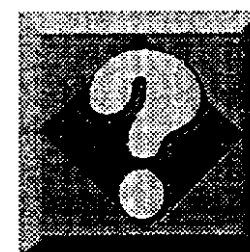


4

Personal Property

Frequently Asked Questions About Personal Property

➤ <i>What is DoD's philosophy and goal for personal property?</i>	Section 4.1
➤ <i>What is personal property?</i>	Section 4.1
➤ <i>How, when, and why is personal property inventoried?</i>	Section 4.2
➤ <i>How is the LRA involved in identifying personal property it needs?</i>	Section 4.3
➤ <i>How is personal property transferred? Can it be obtained at discount?</i>	Section 4.4
➤ <i>Are there limitations or conditions on transferred personal property?</i>	Section 4.4
➤ <i>Can personal property be resold once it is transferred?</i>	Section 4.4
➤ <i>Can the Military Department provide substitute personal property?</i>	Section 4.5
➤ <i>What is DoD's general guidance regarding emission rights?</i>	Section 4.6



4.1 INTRODUCTION

4.1.1 Philosophy and goal

The Department of Defense realizes that the manner in which personal property is disposed of at a closing base can have an important impact on the local **community's** prospects for economic recovery. The communities should also realize that some personal property on the base is needed for the Military Department to carry out its mission. In making decisions on the disposal of personal property, the Military Department should strive to find the best use for the property while making every reasonable effort to assist the LRA in obtaining the available personal property needed to implement its redevelopment plan. The needs of the Military Department should be balanced against the needs for community redevelopment.

What is DoD's philosophy and goal for personal property?

4.1.2 Definition of personal property

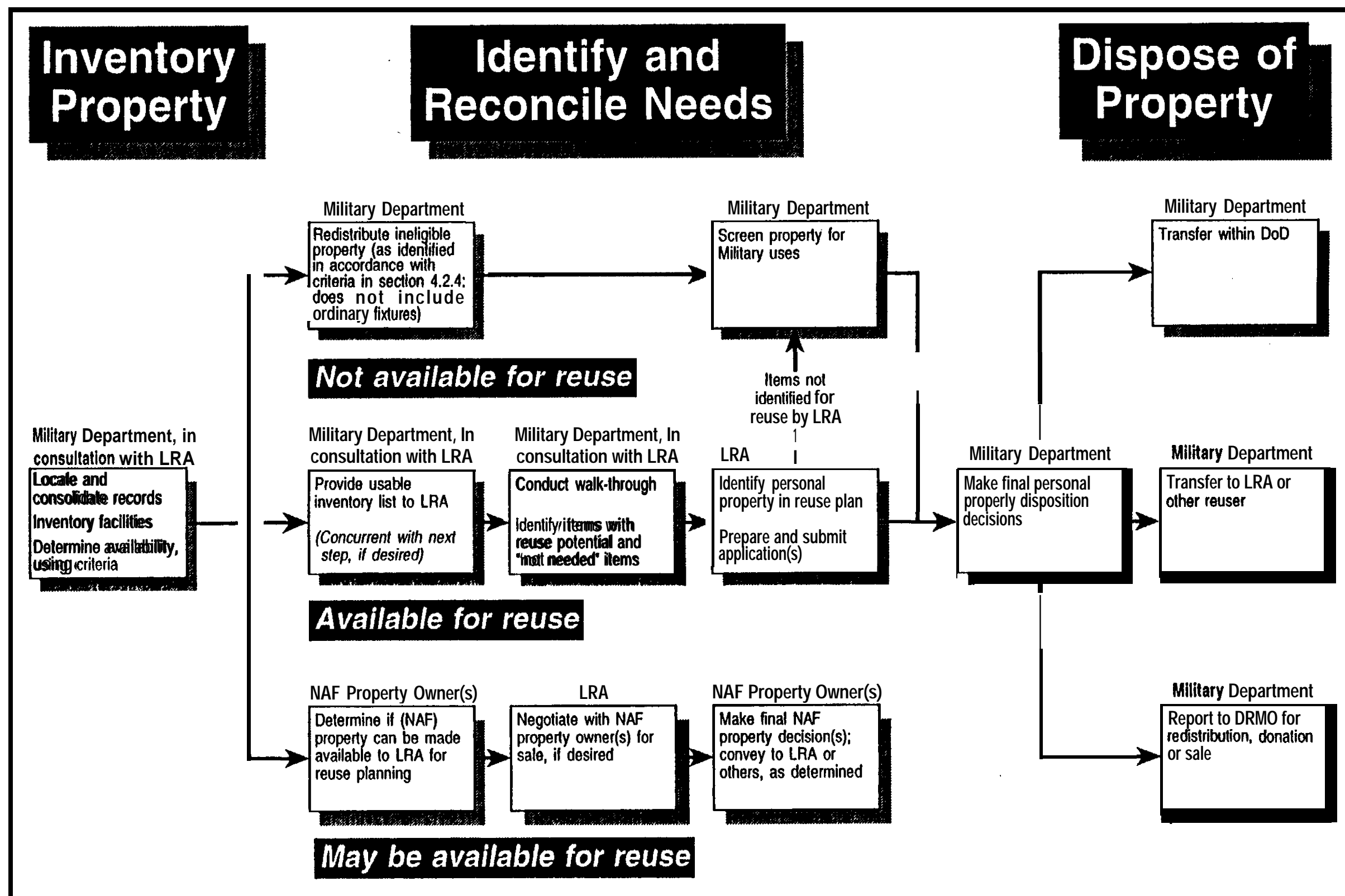
Personal property includes all property except land and fixed-in-place buildings, naval vessels, and records of the Federal Government.

What is personal property?

4.1.3 General practice

Personal property is often **useful** to the redevelopment of real property, but is also important to the functioning of the military mission. Figure 4-1 shows the general practice by which personal property is identified for reuse and subsequently disposed of at a closing base. This process can be summarized as follows:

Figure 4-1. BRAC Personal Property General Practice Flow Chart



- . The installation commander will, in consultation with the LRA, inventory the personal property at the installation no later than six months after the date of closure or realignment approval, and prepare usable inventory records. This will help the LRA identify assets with reuse potential. Property items will be generally identified as either available for reuse, or not available for reuse.
- LRA consultation should include a walk-through of the base so that LRA officials can view available personal property and should continue during redevelopment planning. The Military Departments will be sensitive to the planning needs of the LRA and will not move ordinary fixtures and other property that are likely to be suitable for reuse during redevelopment planning. However, personal property necessary to meet specific military requirements or non-Military Department-owned property is subject to off-base relocation.
- . The Military Department should advise the LRA to identify in its redevelopment plan the property necessary for the effective implementation of the plan. Personal property may be conveyed to an LRA or other recipients under various authorities, including an EDC. The LRA may separately negotiate with non-appropriated fund (NAF) instrumentalities for NAF-owned property.
- . Payment for personal property may be at or below fair market value, or may be at no cost, depending on the conveyance authority used. Purchases of NAF-owned property may be negotiated between the NAF property owner(s) and the LRA.
- . The basic steps in this procedure and the party(ies) principally responsible for each are shown in Figure 4-1. The procedure depicted has been compiled from Military Department-specific practices, but may be executed somewhat differently at a particular BRAC installation.

4.2 PERSONAL PROPERTY INVENTORY

4.2.1 Inventory requirement

The installation commander at a closing or realigning base must conduct an inventory of all property owned by the Department of Defense on the installation, including any non-contiguous parcels of property to be disposed of in conjunction with the main site, within six months after the approval date of closure or realignment. The goal of the inventory is to identify, as early as possible, personal property that will be made available to the LRA for reuse planning purposes, as well as property that may be relocated. To facilitate this process, the installation commander, with input from tenant commanders, if applicable, is required to identify items of personal property that are:

- Needed to support a military mission.
- . Needed to support the LRA's redevelopment plan.
- . Ordinary fixtures.

When should personal property be inventoried?

Why is it necessary?

Who is responsible for the inventory?

Personal Property

- Available for redistribution within or outside of the Department of Defense.

*What's the personal
property inventory
procedure?*

4.2.2 Procedure

Personal property records should be assembled and made available as soon as possible after the date of approval. This activity should be followed by a physical inspection and count, where necessary, to determine the condition and quantity of personal property that will be made available to the LRA for reuse planning purposes. The personal property inventory should be performed under the direction of the installation commander, with input from tenant commanders, if applicable, in consultation with the LRA. The inventory should:

- . Include all DoD tenant organizations including the National Guard and Reserves, if applicable (see Section 4.2.4).
- . Exclude non-DoD tenant organizations and transient property (e.g., other Federal Agency offices, General Services Administration (GSA) vehicles, contractor equipment), property located on any portion of the base retained by DoD and not related to the productive capacity or minimum maintenance requirements of the installation, and NAF-owned property.
- . Identify personal property as available for reuse, or not available for reuse. Fixtures shall be identified as available for reuse (see also Section 4.2.3).

If installation personal property records and inventories are not in an easily usable format, the installation commander should consider creating simplified personal property inventory summaries for use by the LRA and others. The Military Departments will keep copies of all shipping records, transfer orders and other records associated with all transfers of personal property.

*What inventory
categories should
be used?*

*What about
non-accountable
items ?*

4.2.3 Personal property categories

The following descriptions and categories of personal property are provided to facilitate LRA and Military Department dialogue during the redevelopment planning period. This information is also provided to help installation and tenant commanders determine items of personal property that will be made available to the LRA for redevelopment purposes. Personal property will be identified according to the following categories:

- Available for reuse and not available for reuse. Both accountable and non-accountable personal property will be initially identified as either available for reuse or not available for reuse. This identification will be made by the installation commander or tenant commander, depending on what entity owns the property, in consultation with the LRA. Except for specifically exempted items (see also Section 4.2.4), personal property may be identified as available for reuse at any time during the redevelopment planning process. Personal property can only be identified as being not available for reuse if it meets the criteria provided in Section 4.2.4.
- . Ordinary fixtures. This category includes items commonly referred to as fixtures in typical real estate transactions. It includes, but is not limited to, such items as blackboards, sprinklers, lighting fixtures, electrical and plumbing systems, built-in furniture, fuse boxes, etc.

- . Not needed for redevelopment. After the inventory and LRA consultation (see Section 4.3), the inventory list or other identification records maybe updated to include items not needed for redevelopment (see also Section 4.2.4). Items initially identified as being not available for reuse or not needed for redevelopment need not be included on a detailed inventory list. This determination can be made at any time.
- Status under disagreement. If the installation commander or tenant commander and the LRA cannot agree on an item's category, the item will be included in the detailed inventory list and identified as status under disagreement until resolved by the process described in Section 4.3.1.

Additionally, all personal property is either accountable or non-accountable. This distinction affects the level of detail required for the inventory records to be provided to the LRA.

- Accountable personal property. Property for which a continuously updated itemized inventory is **maintained**. Inventorying accountable property should be straightforward, using installation inventory procedures and records.
- Non-accountable personal property. Property for which an updated itemized inventory is not maintained. For example, some office furnishings (e.g., desks, chairs, file cabinets) and consumables (e.g., paper, pencils) not physically attached to the buildings are non-accountable. All non-accountable personal property determined to be available for reuse should be inventoried. Consumables do not have to be included, however. The level of detail of inventory information to be provided to the LRA should be determined by the installation or tenant commander in consultation with the LRA. Non-accountable personal property maybe inventoried on a gross basis by facility, and provided to the LRA in summary format, **as** illustrated below:
 - Bachelor Officers' Quarters (BOQ)—25 rooms and offices, furnished.
 - Administration Building-10 offices, furnished.
- Unserviceable but repairable. Certain items of personal property maybe in unserviceable but repairable condition. These items should be specifically noted on the inventory record, including any safety precautions that apply.

Note that all personal property will be conveyed to the LRA or recipient **"as-is"** and will not be repaired by the Military Department or Defense Agency, regardless of condition at the time of conveyance.

4.2.4 Eligibility criteria for personal property items identified as "not available for reuse" or "not needed for redevelopment"

The installation or tenant commander may initially identify items as not available for reuse if they meet one of the following seven criteria:

- The property, other than ordinary fixtures, is required for the operation of a transferring unit, function, component, weapon, or weapon system. This category includes property belonging to a unit or activity relocating to another installation where equivalent property does not exist, and for which

What criteria determine personal property to be "not available for reuse" or "not needed for redevelopment?"

Personal Property

relocation is cost-effective. For example, a unit being transferred to another location may take with it any property it needs to function properly as soon as it arrives at its new location.

- The property is required for the operation of a unit, function, component, weapon, or weapon system at another installation within the Military Department or Defense Agency. Property in this category can only be categorized as “not available for reuse” after the Military Department or Defense Agency has consulted with the **LRA**. With respect to disputed items, the approval of an Assistant Secretary of the Military Department or appropriate Defense Agency official is required.
- The property is uniquely military in character and is likely to have no civilian use (other than use for its material content or as a source of commonly used components). Such property includes classified items; nuclear, biological, chemical items, weapons and munitions; museum-owned property, military heritage property, and items of significant historic value that are maintained or displayed on loan from a museum or other entity; and similar military items.
- The property is stored at the installation for distribution. This category includes spare parts or stock items; e.g., materials or parts used in a manufacturing or repair function, but does not include maintenance spare parts for equipment that will be left in place. This category includes supplies and property stored for purposes of distribution and/or maintenance (including spare parts, consumables or stock items), except for those items needed for maintenance of equipment left in place.
- The property meets the known requirements of an authorized program of another Federal Department or Agency that would otherwise have to purchase similar items, and the property has been requested in writing by the head of the Department or Agency. If the authority to acquire personal property has been delegated, a copy of the delegation must accompany the request. The requesting Federal Department or Agency must pay packing, crating, handling, and transportation charges associated with such transfers of personal property.
- The property is needed elsewhere in the national security interest of the United States, as determined by the Secretary of the Military Department or Director of the Defense Agency concerned. This authority may not be delegated below the Assistant Secretary level or equivalent. In exercising this authority, the Secretary or Director may transfer the property to any DoD entity or other Federal Agency.
- The property belongs to non-appropriated fund (**NAF**) instrumentalities or other **non-Defense Department entities**. This category includes property purchased with funds generated by Government employees and their dependents for religious; morale, welfare or recreational activities; post exchanges; ship stores; military officer or enlisted clubs; or veterans’ canteens. This property is not owned by the Military Department. The following three subcategories merit further explanation

- **Non-DoD personal property.** DoD does not own certain items of personal property (e.g., it belongs to a lessee renting space on the active installation). Thus, it is outside of the Military Department's or Agency's control, and cannot be identified as being available for reuse. Unless specific arrangements are otherwise made, this property will not be subject to availability for planning purposes or for transfer to the LRA or any other recipient.
- **NAF property.** *The Military* Department should advise the LRA to make arrangements to purchase NAF property (including negotiating the purchase price) directly with the NAF property owner as early in the redevelopment planning process as possible.
- **State-owned National Guard-used property.** At bases hosting National Guard units, some items of personal property may have been purchased with State funds. Items demonstrably identified as being purchased with State funds are not available for reuse planning or subject to transfer for redevelopment purposes, unless so identified by the State property officer. However, certain items of personal property used by National Guard units at closing bases have been purchased with Federal funds. These items are subject to inventory and maybe made available for redevelopment planning purposes.

What about the personal property DoD doesn't own?

Only those items of personal property meeting the following criterion, maybe identified as personal property not needed for redevelopment:

- . The property is not required for the reutilization or redevelopment of the installation. This determination must be made by the Military Department or Defense Agency in consultation with the LRA. This determination will not generally be made until one of the following occurs:
 - The LRA indicates that it does not need the property (e.g., during the installation walk-through).
 - The LRA does not include the property in its redevelopment plan.
 - The LRA indicates that it will not submit a redevelopment plan.

4.3 REQUIRED **LRA** CONSULTATION

4.3.1 Initial LRA consultation

Consultation between the installation commander and the LRA is required throughout the redevelopment planning period. The following guidelines should be used to facilitate personal property consultation.

- . Consult early. The installation commander or designate and applicable tenant commanders should coordinate personal-property-related decisions with the LRA early in the redevelopment planning process. The DoD Base Transition Coordinator will participate in this consultation.

How should the LRA be involved?

Who consults with the LRA?

When should the LRA be consulted?

Personal Property

- Provide a usable inventory record. The installation commander or designate will provide a usable inventory record to the LRA. The level of detail for this record should be determined in consultation with the LRA. This record should help the LRA to identify the personal property to support its redevelopment plan. All property should be identified. However, property to accompany a realigning unit need be only broadly identified.
- Offer a walk-through. As part of the personal property inventory and consultation process, the installation commander or designate should invite the LRA to walk through the installation. This can take place concurrently with the personal property inventory (see Figure 41), and will assist the LRA in determining the type(s) and condition(s) of the personal property listed on the inventories. The walk-through will also help the LRA identify items of personal property it wants to include in the redevelopment plan.
- Identify items available for reuse. The installation commander and applicable tenant commanders should identify personal property with the potential to support the redevelopment of the installation including ordinary fixtures. The identification of available items should be made to the LRA following the inventory and should be updated, as necessary.

What if an LRA disagrees with an installation or tenant commander's decision on personal property?

- Resolve disagreements as they arise. Personal property disposal is at the discretion of the Military Department or Defense Agency, but decisions should be made in consultation with the LRA. If the LRA disagrees with an installation commander or tenant commander's decision regarding the personal property that will be made available for reuse, the LRA may seek to resolve its disagreement within the property-owning Military Department or Defense Agency's chain of command. Input from the LRA should be considered when resolving disagreements.
 - The Military Department or Defense Agency should strive to respond within 30 days to all requests by the LRA to reconsider an issue related to personal property availability or disposal decisions made by the installation commander or tenant commander.
 - Final authority for resolving personal property issues rests with the Military Department or Defense Agency having jurisdiction over the property.

4.3.2 Follow-up LRA consultation

The installation commander or designate and applicable tenant commanders will continue to consult with the LRA throughout the redevelopment planning period. The objectives of further consultation are:

- . To make sure the LRA knows which items of personal property are available to it for incorporation in its redevelopment plan, and which items are being relocated off-base or disposed of by other means.
- To allow for timely disposal of personal property identified by the LRA as not being needed for its redevelopment planning.

4.3.3 Off-base movement of personal property

Throughout the mission drawdown period, the installation commander or designate and applicable tenant commanders will ensure that, with the exception of items identified as not available for reuse or not needed by the community (see Section 4.2.4), and any unserviceable items to be reported to the Defense Reutilization and Marketing Office (DRMO), the personal property will remain at the installation until **a time** that is determined by the installation commander or tenant commander in consultation with the LRA.

Can personal property be moved off base while the LRA is planning for reuse?

- . Typically, the Military Departments and Defense Agencies will move personal property to another base only when it makes economic sense to do so. A cost-benefit analysis maybe employed at any time by the installation commander, tenant commander, or designate as a tool in reaching a decision to move accountable and non-accountable personal property.
- Items identified as not available for or not needed by the community (see Section 4.2.4) may be moved off base at the discretion of the Military Department or Defense Agency. This movement will not typically occur before the installation commander or designate and/or applicable tenant commander informs the LRA of the impending property movement and makes sure the LRA understands why the property is to be moved. If the LRA disagrees with an installation commander or tenant commander's decision regarding the off-base movement of personal property, the LRA may request reconsideration of the move within the property-owning Military Department or Defense Agency's chain of command (see Section 4.3.1).
- Items identified by the installation commander or tenant commander as unserviceable may be reported to DRMO at any time. No consultation with the LRA is required, but a courtesy notice to the LRA should be given whenever possible.

4.4 PERSONAL PROPERTY TRANSFER METHODS

4.4.1 Principal authorities affecting personal property transfers

(See Appendix A, *Laws and Regulations Affecting Base Reuse Implementation*, for a summary of legal authorities).

What authorities affect personal property transfers?

- . 32 CFR Parts 175 and 176 (Economic development *conveyances* to LRAs and homeless assistance conveyances to LRAs or homeless providers).
- 41 CFR Part 101-47.308 (Special disposal provisions for public airports; historic monuments; education and public health uses; shrines, memorials or religious uses as part of another public benefit conveyance; public park or recreation uses; housing for displaced persons; and non-Federal correctional facility uses).
- . 41 CFR Part 101-47.304 (Negotiated sales and public sales).
- 41 CFR Part 101-43 (Utilization of personal property).
- 41 CFR Part 101-44 (Donation of personal property).

Personal Property

- 41 CFR Part 101-45 (Sale, abandonment, or destruction of personal property).
- Stevenson-Wydler Technology Innovation Act of 1980, P.L. 96-480, as amended (15 U.S.C. 3710(i)) (Donation of research equipment to educational institutions and non-profit organizations).
- Executive Order 12999 (Donation of personal property; e.g., computers, to further math and science education).

4.4.2 Leases

Personal property associated with a lease will typically be included in the leasehold (see Chapter 5 of this Manual for additional information on leasing).

How will personal property be transferred?

4.4.3 Public airport conveyances

Surplus personal property may be transferred as part of an airport conveyance. **Personal** property that is desirable for developing, improving, operating, or maintaining a public airport or is needed for developing sources of revenue from non-aviation businesses at a public airport (and the interest is not best suited for industrial use) can be transferred by the Military Department by gift. The Federal Aviation Administration (FAA) must approve **all** public airport transfers.

4.4.4 Public benefit conveyances and similar approved, sponsored, or requested conveyances

When personal property is required for the reuse of real property subject to a public benefit conveyance (PBC), the personal property maybe related and treated as part of the real property conveyance. These transfers can be further categorized as follows:

Sponsored public benefit conveyances. These include PBCS for education, public health, public park or recreation, and port facility purposes. Surplus personal property may be transferred by the sponsoring Federal Agency in accordance with its rules implementing its authorized programs. The terms and conditions attached to the reuse and the value (or the discount allowed) of the personal property are determined by the Federal sponsoring Agency. In this type of conveyance, the Military Department assigns the real, related, and other qualifying related personal property to the Federal sponsoring Agency for transfer to the sponsored applicant.

Approved public benefit conveyances. These include PBCS for non-Federal correctional facilities, historic monuments, and power transmission lines. The terms and conditions attached to the reuse are determined by the Military Department. The Military Department transfers the qualifying personal property directly to the approved PBC recipient.

How will personal property be transferred to homeless assistance providers?

4.4.5 Homeless assistance conveyances

Personal property may be transferred to an LRA or to a homeless assistance provider for homeless assistance purposes under the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (see also Chapter 3 of this Manual). Property transferred under this authority may be used by a homeless assistance provider either on *or* off the installation.

After providing the LRA with the personal property inventory, the installation commander or designate should recommend to the LRA that the following strategy be used for identifying and transferring personal property intended for use by homeless assistance providers:

- . Coordinate with the proposed provider(s) to identify any personal property to be conveyed.
- . Incorporate the agreed-to disposition of any identified personal property in any binding contract(s) negotiated between the LRA and any selected homeless provider(s).
- Include identification and intended use of the personal property in the homeless assistance portion(s) of the adopted redevelopment plan.

4.4.6 Economic development conveyances

GENERAL INFORMATION

- Under an Economic Development Conveyance (EDC), the Military Department can convey land and buildings to the LRA for consideration at or below fair market value, at no cost, or for other consideration that may be subject to recoupment. Such conveyances can be made when the Military Department determines that the installation, or significant portions of it, cannot be conveyed under other authorities to rapidly create new jobs. Personal property may be transferred as part of an EDC of the real property (see also Chapter 7 of this Manual).
- . Personal property may also be transferred without real property under a separate EDC, referred to in this Manual as a “Personal Property EDC,” if (1) the transfer is necessary for the effective implementation of the redevelopment plan for the installation, and (2) **cannot** be transferred under other authorities. However, by completing an application in which the personal property is identified using inventory information already provided to the LRA by the Military Department (e.g., inventory summaries), Personal Property EDCs are relatively straightforward to execute.
- . Personal Property EDCs can be made only to the LRA.
- Personal Property EDCs are not subject to the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. §§ 483-484), which governs property disposal.
- . To approve a Personal Property EDC, the Military Department must provide an explanation why the transfer cannot be carried out in accordance with the other personal property conveyance authorities listed in this Chapter.
- . Personal property may not be acquired by the LRA under an EDC solely for the purpose of immediately leasing or re-selling it to finance base reuse. However, the LRA may provide the property to others for use in accordance with the redevelopment plan for the installation.

How is personal property included in an economic development conveyance ?

Does personal property in an EDC always have to be conveyed with real property?

When should a Personal Property EDC be used?

Personal Property

APPLYING FOR A PERSONAL PROPERTY **EDC**

This subsection describes the process by which an **LRA** can apply for a separate (from real property) Personal Property EDC.

The Personal Property EDC application should be comprehensive with regard to any and all property requested at the installation. It should also explain why a Personal Property EDC is necessary for economic redevelopment and job creation. It will probably be necessary for the LRA to ask the Military Department for assistance while completing the transfer order described below. If necessary, the Military Department may ask the LRA for additional information. The application should contain the following elements:

- A narrative including the following:
 - Identification of the personal property requested. Copies of the personal property inventories prepared for the **LRA's** use, as described in Section 4.1, may be used to identify the personal property requested. This list may be amended during the redevelopment planning process, as long as the use of the additional property is consistent with the overall economic redevelopment goals described in the application package.
 - A statement of how a Personal Property EDC will support the installation's redevelopment.
- A statement describing why other authorities, including sale or donation, cannot be used to acquire the personal property.
- If the transfer is requested for less than fair market value, a statement justifying why a discount should be provided. The inventory record will state the Standard Cost of the property. The Military Department will estimate the fair market value of the property for the purposes of the transaction.
- A statement of the **LRA's** legal authority to acquire the personal property.

After receiving the application, it will be subject to Military Department review, using criteria similar to those for real property **EDCs**. These criteria are fully described in Chapter 7 of this Manual.

After an application is approved, a completed Transfer Order for Surplus Personal Property at a Closing or Realigning Installation (which can be found at the end of this Chapter), should be prepared under the direction of the installation commander in consultation with the **LRA**. Copies of the personal property inventories prepared for the **LRA's** use, as described in Section 4.1, may be attached to the Transfer Order. The Transfer Order will state the Standard Cost of the property.

**Are there conditions
on Personal
Property EDCs?**

CONDITIONS PLACED ON PERSONAL PROPERTY **EDCS**

At a minimum, the Military Department shall place the following conditions and limitations on personal property transferred under an EDC.

- The LRA must make an application for personal property within the application period established by the Military Department. This period may begin after the Military Department receives an adopted redevelopment plan and may conclude as soon as 90 days later.
- . The Military Department can require the LRA to take custody of and become accountable for the requested personal property 60 days after receiving notice that the application for personal property has been approved by the Secretary of the Military Department.
- The Military Department may screen personal property for military reutilization and report any surplus items to the DRMO for screening and disposal if the LRA decides not to accept the personal property.
- The Military Department and the LRA are not required to account for a non-accountable item with a Standard Cost of less than \$500. The Military Department is, however, required to provide an estimate of the total value of all such items. Office furniture with a Standard Cost of more than \$300 is considered accountable.
- Non-accountable items with an individual Standard Cost of less than \$500 may be accounted for in aggregate if the total value of all like items with a remaining economic or serviceable life of more than three years is greater than \$5,000.
- The use of personal property must support base redevelopment. The redevelopment plan should generally identify how the property will be used.
- A recipient LRA shall certify its compliance with the conditions of the transfer of personal property. These certifications will be made at the end of each calendar year and may be subject to random audits by the Government.
- . As a general rule, the Military Departments will restrict the LRA's ability to acquire personal property at less than fair market value solely for the purpose of leasing or reselling it. This limitation, however, does not preclude the LRA from subsequently leasing or selling personal property to entities who will place it into productive use in accordance with the redevelopment plan for the installation.
- . Typically, if the Military Department leases or sells an item of personal property for less than fair market value, or leases or conveys an item of personal property under a no-cost EDC, it will require the LRA to use or hold that item for one year. If the item is valued at more than \$5,000, the LRA must use or hold that item for two years.
- Any proceeds from subsequent leases or sales of usable items must be used to pay for protection, maintenance, repair, or redevelopment of the base.

Can the LRA lease or sell the personal property acquired under a Personal Property EDC?

These restrictions will be a condition of lease, sale, or transfer of the personal property transferred under an EDC.

*What other ways can
personal property be
transferred?*

4.4.7 Negotiated sales of related personal property to public entities

Under a negotiated sale, related personal property should be valued with the realty as an economic unit. Negotiated sales, however, are at no less than fair market value.

4.4.8 Public sales of personal property with real property

Under a public sale, personal property is sold and conveyed as an economic unit with the realty to the highest bidder at no less than fair market value. The Federal disposal agent is not obligated to accept less than fair market value bids.

4.4.9 Leases in furtherance of conveyance

Personal property associated with a lease in furtherance of conveyance (as defined in Chapter 5 of this Manual) will typically be conveyed to the recipient at the inception of the lease.

4.4.10 Special transfer categories

NON-APPROPRIATED FUND (NAF) PERSONAL PROPERTY

If the NAF personal property owner(s) makes personal property available for disposal, the LRA or other interested parties may negotiate purchase terms directly with the property owner.

DEFENSE WORKING CAPITAL FUND (DWCF) EQUIPMENT

Available equipment of this type is sold at fair market value unless:

- It is included in an EDC to the LRA.
- . It is determined to be related personal property and valued with the real property (e.g., shop equipment or dry dock cranes).
- . The Military Department determines the DWCF equipment has an actual cash value below \$500 per item, with all like items having a total value of less than \$5,000.
- . The Military Department determines a no-cost or discounted conveyance is desirable. Below-cost conveyances for DWCF equipment having an original cost of more than \$25,000 must be accompanied by a written justification approved by the Secretary of the Military Department.

4.4.11 Sale and donation of surplus personal property

Personal property not needed by the LRA in support of its redevelopment plan can be redistributed within the Military Department. If it is not claimed by the Military Department, it will be reported to the DRMO, the DoD personal property disposal agent.

Surplus personal property may be disposed of by the DRMO by either donation or sale. Priority for donation should be given to either the LRA or the local community.

- Federal law authorizes the Federal Government to allocate Federal surplus personal property for transfer to State agencies, which in turn distribute such property for public purposes to eligible recipient agencies.
- The major categories of eligible recipients are:
 - Public agencies.
 - Nonprofit educational and public health activities.
 - Nonprofit and public programs for the elderly.
 - Educational activities of special interest to the Armed Forces.
 - Public airports.
 - Homeless assistance providers.
- Under this donation program, communities and LRAs may ask for personal property that did not qualify for an EDC. Such community or LRA requests for property must be made through the closing base installation commander or other authorized official to the appropriate State Agency for Surplus Property (SASP).
 - Personal Property donated under this procedure must meet the usage and control requirements of the applicable SASP.
 - Property subsequently not needed by the LRA or community shall be disposed of as required by the SASP.
- The DRMO will dispose of surplus property not selected through the donation program.
- Under special circumstances, property maybe sold by negotiation. Such sales, typically for property valued at less than \$15,000, are infrequent and must be justified in advance by the DRMO to the Secretary of Defense.

4.5 FUNCTIONALLY EQUIVALENT PERSONAL PROPERTY

4.5.1 Substitution of functionally equivalent similar items

- **The** Military Department or Defense Agency may substitute an item of personal property similar to one requested by the LRA.
- It is the Military Department or Defense Agency's responsibility to ensure that **the** substitute item is functionally equivalent to the requested item.
- Should a dispute arise about the suitability of a substitute item, the original item in question should not be removed from the base **until** the disagreement process described in Section 4.3.1 is complete.

Can the Military Department substitute similar items of personal property for those requested by the LRA?

4.5.2 Definition of “similar”

In the context of substituted items of personal property, “similar” means that the original item and the proposed substitute item have the same functional capability and that the substitute item is serviceable for the same intended use.

4.6 AIR EMISSION RIGHTS TRADING GUIDANCE

What are Clean Air Act Emission Trading Programs?

4.6.1 Clean Air Act

The Clean Air Act Amendments of 1990 (CAAA) require reduction in emissions by activities all over the nation, both military and civilian, in order to meet the national ambient air quality standards for clean air. The amendments introduced the marketplace into emission control regulations. To further reductions through market trading, the CAAA and implementing State regulations may allow movement or transfer of emission rights between parties at the same site, to other locations within the State, or, in some instances, to other States.

- **Non-attainment-The CAAA** designates acceptable ambient levels of selected (“criteria”) pollutants. Areas that exceed those levels are designated as “non-attainment” areas and the State’s control plan (“State Implementation Plan” or “SIP”) must be adequate to reach attainment within a specified time. The required reduction controls and the time required to achieve those reductions depend on the severity of the air pollution problem.
- **Economic Incentive Programs-**To encourage innovative approaches to reduce air pollution, the CAAA authorized development of programs to trade emission rights-rights to emit specific amounts of criteria pollutants. Various State trading programs have been developed such as cap-and-trade allocation and emission reduction credit (ERC) banking. In addition, some States have entered into agreements with other States which allow interstate trades.

What tradable or transferable emissions programs impact base reuse implementation ?

- **Emissions Trading Programs-**There is a variety of individual trading programs throughout the country. Current programs allow trading reductions from stationary, mobile, and area sources and may allow intrastate and interstate trading. Local, State, or regional programs for trading/ transferring ERCs, allowances, or other economic incentives must first be approved by EPA and then incorporated into the SIP(s). ERCs must be surplus (i.e., go beyond existing CAAA requirements), enforceable, permanent (source of pollution must be permanently reduced), and quantifiable. ERCs, allowances, or similar tradable incentives are issued or available only when there is an approved SIP in the area where generated. Generally, if there is an approved program, when an owner permanently shuts down an emission source, ERCs can be created by submitting an application and fee to the State or air quality control region (AQCR). The AQCR may discount or retain some of the ERCs as part of a reserve bank to support future economic growth or to meet attainment requirements. Even in States that do not have a formal program for ERCs (including mobile source emission reductions), DoD has successfully quantified and traded these “offsets” to other DoD Components or other Federal Agencies to support conformity requirements. Because programs differ from State to State, and regulatory changes are frequent, consultation with experts within the Military

Departments is strongly encouraged. The trading and transfers of mobile source emissions raise **special** considerations, including transfers that support conformity, and should be referred to the Secretary of the Military Department.

- . Permit Transfers-Stationary sources may be issued air permits by the State or AQCRS to emit specific levels of criteria pollutants during a year. Regulators usually allow the transfer of these air permits with transfer of the stationary source.
- . General Conformity-The CAAA requires a Federal Agency to demonstrate that a new Federal action, or a Federally approved or supported action, will not cause deterioration of air quality or impact attainment status in a **non-attainment** or maintenance (former non-attainment) area. Because military bases gaining units, functions, or weapons systems as a result of a **BRAC** action are required to comply with conformity, gaining facilities need to determine whether emission reductions or offsets which are needed to demonstrate conformity can be transferred from closing or realigning bases.

4.6.2 Guidance and implementation

Emission rights are important to both the military and the community.

Consistent with full protection of national defense imperatives, distribution of emission rights from closing bases (if available under applicable law) should reasonably accommodate military needs, community redevelopment needs, and **State** and local air quality attainment goals. Decisions on the distribution of any such emission rights will be made by the Secretary of the Military Department only after full consultation with the **LRA**, the local AQCR, and other Military Departments with vital needs.

What is DOD's general guidance regarding emission rights?

All DoD installations being closed should first consult with the AQCR or State to obtain current information on local air quality conditions (attainment status); conformity rules; conditions for permit transfer; status of approved trading programs; and availability of community bank credits for redevelopment. All DoD installations being closed should also inventory all existing emission sources, including **all** stationary and mobile sources and existing air permits with expiration dates. The goal of the inventory is to have complete and accurate information for discussions with the **LRA**, the local AQCR, neighboring DoD installations, and other Federal Agencies. After completing the inventory, the installation should enter into discussions with the **LRA**, the AQCR, other Military Departments, DoD Components, or Federal Agencies. The **LR4** should be encouraged to identify emission rights reasonably needed to support planned economic development. Where allowed by local rule, transfer of existing permits with transfer of ownership of the emission source should be considered.

When a receiving installation is located in an area that could receive credits, offsets, or allowances from a closing installation, the receiving installation should determine its emission needs as early as possible. Every effort should be made to reduce or spread out the need for credits, offsets, or allowances. If additional emission rights are needed, the receiving installation should advise the closing installation immediately in writing with a specific emission transfer/trading request and justification. Special consideration to the receiving installation's needs should be given in the distribution decision.

Transfer Order Personal Property at a Closing or Realigning Installation					Page 1 of ____pages	
To: (Name and address of redevelopment authority)			Personal property EDC type (check one): <input type="checkbox"/> Full fair market value (standard cost) <input type="checkbox"/> Less than fair market value <input type="checkbox"/> Donation			
From: (Military organization and address)			Total acquisition cost			
Conditions for transfer: (List the transfer conditions here or attach a separate sheet of paper with the list of transfer conditions)						
Property List: (It is not necessary to complete this section if an inventory list containing the required information is attached)						
Identification Numbers	Description	Demil Code	Cond. Code	Quantity/Unit of Issue	Standard Cost unit	Total
Transferee Action Transferee certifies and agrees that transfers and donations are made in accordance with 32 CFR Part 175	Transferee (Name and address of redevelopment authority):	Signature and title (Representative of redevelopment authority)				Date
Administrative Action	Determining Officer (as determined by Military Department)	Signature of determining officer				Date
[certify that the administrative action pertinent to this order is in accordance with 32 CFR Part 175	Approving officer (as determined by Military Department):	Signature of approving officer				Date